

Peter J. Little #173397

CIBOLA UNIT 6F9

A.S.P.C. P.O. Box 8820

SAN LUIS, AZ 85349

<input checked="checked" type="checkbox"/> FILED	<input type="checkbox"/> LODGED
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JAN 30 2012	
CLERK U.S. DISTRICT COURT	
DISTRICT OF ARIZONA	
BY	Z. DEPUTY

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Peter J. Little,
Plaintiff.

- VS -

Charles L. Ryan,
Defendants.

CASE NO: 2:11-CV-781-PHX-FJM(COA)

PLAINTIFFS RESPONSE TO DEFEN-
DANTS MOTION TO DISMISS UNDER
RULE 12(B)

IN response to defendants Rule 12(B) motion to Dismiss. (Doc. 22), Defendant moves for dismissal claiming that Plaintiff did not exhaust his administrative remedies, before initiating his § 1983 lawsuit.

Also that under 42 U.S.C. § 1997e(a) it is mandated that the lawsuit be dismissed as exhaustion is a precedent condition to filing suit, thereby barring the complaint.

MEMORANDUM OF POINTS AND AUTHORITIES

I. FACTS

Plaintiff did exhaust all administrative remedies under the Prison Litigation Reform Act of 1996 (PLRA throughout) and 42 U.S.C. § 1997e(a).

II. LEGAL ARGUMENT

A. The PLRA of 1996 mandates exhaustion of administrative remedies prior to suit for all inmates claims "brought with respect to prison conditions under section 1983 of this title, or any other federal law." 42 U.S.C. § 1997e(a); Porter v. Nussle, 534 U.S. 516, 517 (2002).

"IN deciding a motion for a failure to exhaust nonjudicial remedies, the court may look beyond the pleadings and decide disputed issues of fact." Wyatt v. Terhune, 315 F.3d 1108, 1119 (9th Cir. 2003).

Relevant evidence in demonstrating the availability of administrative relief "include statutes, regulations, and other official directives that explain the scope of the administrative review process and documentary... evidence from prison officials who review the process. Brown v. Valoff, 442 F.3d 924, 931 (9th Cir. 2005).

B. The Inmate Grievance System

Under the Inmate Grievance System, Department order 802, if a prisoner has a complaint inmates shall attempt to resolve the complaint through informal means. D.O. 802.02.

If the prisoner can not resolve their complaint informally they can file a grievance within five days after they receive the receipt of the response from their CO III. D.O. 802.03(1) (emphasis added).

803.03(1.5)" Within 15 working days the Deputy Warden shall issue a written response to the inmate. If the issue was not resolved at the grievance level, within five work days of receiving the Formal Grievance Response from the Deputy Warden an inmate may Appeal the decision to the Warden. 802.04

If the issue was not resolved during the Appeal to the Warden the inmate the Appeals to the Director at Central Office. 802.05

Under 802.05(1.2) the Units CO IV logs, and forwards all documents (grievance file) to Central Office Appeals Officer within five workdays.

802.05(1.4) Within 30 calendar days of receiving the appeal, the Central Office Appeals Officer shall prepare a response and submit for the Director's signature.

802.05(1.8) The decision of the Director is final and constitutes exhaustion of all remedies within the department. (See Doc 22, Defendants Exhibit 1, Att. B).

Plaintiff hereby submits Exhibits proving that all administrative remedies were exhausted.

On 6-1-10 Plaintiff submitted an informal resolution inmate letter (Exhibit A, Attachment 1.)

On 6-25-10 Plaintiff received a response from CO III Wilcox (Ex A. Att 2).

On 6-17-10 Plaintiff filed a grievance on the issue after filing for informal resolution. The court can see in the grievance submitted that Plaintiff did make ADOC aware of the facts that ADOC was in violation of the Fifth Amendment right to property, the Fourteenth Amendment right to due process of law and the "Takings Clause" of the Fifth Amendment.

Also, Plaintiff requested an 8% just compensation under the Fifth Amendment.

A response was filed by Deputy Warden Rider on 7-9-10. (Ex A. Att 3.)

Plaintiff never received copy of grievance or response back, so on 9-29-10 (Ex A. Att 4) Plaintiff wrote inmate letter on why he never received his response and asked for a response with return of inmate letter so Plaintiff could continue his administrative remedies. Inmate letter was returned with response on 10-7-10 (Ex A. Att 5).

On 10-11-10 (Ex A. Att 6) Plaintiff submitted grievance appeal to Complex warden J. Stewes' office.

After time limits expired Plaintiff once again filed another inmate letter on 11-21-10 (Ex A. AH 7) to grievance coordinator Jensen on why Plaintiff had not received a response to his grievance appeal.

On 11-30-10 Plaintiff received inmate letter back with attached grievance appeal response which was filed on 11-18-10. (Ex. A. AH 8.)

On 12-6-10 (Ex A. AH 9) Plaintiff filed a grievance appeal to ADOC Director Chuck Ryan. After waiting for a response past time limitations, Plaintiff once again filed an inmate letter inquiring a response from Central Office and director Chuck Ryan.

Plaintiff never received a response of inmate letter 1-20-11 (Ex A. AH 10)

Furthermore, Plaintiff never received a response from Central Office

D.O. 802.05 (1.4)

Within 30 calendar days of receiving the Inmate Grievance Appeal, the Central Office Appeals Officer shall prepare a response and submit it to the Director for signature.

By Plaintiff not receiving a response from Central Office within the time limitations and requests in itself is a decisive decision of the Director.

D.O. 802.05 (1.8)

"The decision of the Director is final and constitutes

exhaustion of all remedies within the Department."

Hence, Plaintiff has exhausted remedies.

Plaintiff also sent a copy of all inmate letters and grievance proceedings to Central Office by United States Post Office. Plaintiff is in the process of obtaining a copy of the institutional legal mail log from 12-6-10 to 12-13-10. At this time have not been able to receive copy yet.

To say that Plaintiff did not exhaust administrative remedies is ludicrous. To say that Plaintiff does not have grievance filed at Central Office could only mean some personnel misplaced file or mistakenly disposed of it.

Furthermore, Plaintiff went beyond administrative remedies and even filed a Special Action Petition in the Arizona Court of Appeals to obtain retention funds.

Arizona Court of Appeals declined jurisdiction without giving a written reason why. (Ex A. AH II).

IN CONCLUSION

Plaintiff did in fact exhaust all available administrative remedies. Plaintiff did in fact through the grievance procedure make ADX and defendant Chuck Ryan aware that their actions were in violation of the 5th Amendments, property and "takings clause" along with the 14th Amendments due process of law clause.

Based upon the reasons and proof submitted here in Plaintiff requests that the defendants Rule 12(B) motion to Dismiss be denied and defendant be ordered to answer Plaintiff's complaint.

RESPECTFULLY SUBMITTED this 25 day of January 2012.

Signed: Peter J. Little
cln Res. Per.

CERTIFICATE OF SERVICE

Original and two copies mailed to the Clerk of the Court this 25 day of January 2012, and copies mailed to the following:

Defendants:

Katherine Watanabe

Ass. Attorney General/Defendant

1275 W. Washington

Phoenix, AZ 85007

EXHIBIT "A"

ARIZONA DEPARTMENT OF CORRECTIONS

Inmate Letter

Requests are limited to one page and one issue. NO ATTACHMENTS PERMITTED. Please print all information.

Inmate Name (Last, First M.I.) <u>Little Peter J</u>	ADC Number <u>173397</u>	Institution/Unit <u>Yuma Dakota TC12</u>	Date <u>6-1-10</u>
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To: <u>CO III Wilcox, CO III Ortiz</u>	Location <u>CO III Office Bldg 7C</u>
---	--

State briefly but completely the problem on which you desire assistance. Provide as many details as possible.

This is an informal resolution request to have my retention fund placed on spendable account as A.R.S. § 31-254 does not have a provision for me having a natural life sentence. The A.R.S. statutes all apply to guys having a release date I don't. Also because of the fact of ADC holding my rightful money is a violation of my 5th & 14th Amendment rights under the U.S. Constitution. regardless of any state statute. I filed a retention release form on this issue but of course received no response.

Inmate Signature

Peter Little

Date

6-1-10Have You Discussed This With Institution Staff? ☒ Yes ☐ NoIf yes, give the staff member's name: Filed retention forms / no response

ATT. 1

70124

ARIZONA DEPARTMENT OF CORRECTIONS

For distribution: Copy of corresponding
Inmate Letter must be attached to this
response.

Inmate Letter Response

Inmate Name (Last, First M.I.) Little, P.		ADC Number 173397
Institution/Unit ASPC-Yuma/Dakota		
From G. Wilcox COIII	Location Bldg 6	
<p>In response to your informal resolution dated 06/01/10 re: moving retention funds to spendable account, be advised there is a provision in D.O. 905 attachment J for the purpose of utilizing/accessing your retention funds. If you do not agree with this you may proceed to the next level. End of Response.</p>		
Staff Signature <i>G. Wilcox COIII</i>		Date 06/25/10

Distribution: Original - Central Office Master File
Copy - Inmate
Copy - Institutional File

916-2
5/13/10
Att. 2

ARIZONA DEPARTMENT OF CORRECTIONS

Inmate Grievance

Note: You may appeal the Grievance Coordinator's decision to the Warden/Deputy Warden/Administrator by filing form 802-3P, within 10 calendar days of receipt of this notice.

Received By

G. Wilcox

Title

COTI

Badge Number

1887

Date

07/02/10

Inmate Name (Last, First, M.I.)

Little Peter J.

ADC Number

173397

Date

6-17-10

Institution/Facility

Yuma Dakota 7C12U

Case Number

10-406-013

TO: Grievance Coordinator

Description of Grievance (To be completed by the Inmate) I submitted a retention fund form to have retention placed on spendable account as the A.R.S. 31-254 does not apply to me because I have no release date and need money for legal costs. I then submitted an informal resolution. I've received no responses and by the state holding funds in a retention fund is in violation of my 5th Amendment right to property being taken without just compensation and to the 5th & 14th Amendments due process of law. By keeping my money on retention is also in violation to the 5th Amendment's "takings clause". Under U.S. Supreme Court law a state statute is without merit when it violates the U.S. Constitutional Amendments.

Proposed Resolution (What informal attempts have been made to resolve the problem? What action(s) would resolve the problem?)

Submitted retention forms and an informal with no responses. Resolution - to place all retention funds on spendable account with just compensation of 8%. This will avoid further court litigation for attempting to deprive and defraud me of what is rightfully mine.

Inmate's Signature

Peter Little

Date

6-17-10

Grievance Coordinator's Signature

Date

Action taken by Deputy Warden Riarr

Documentation of Resolution or Attempts at Resolution.

I REVIEWED YOUR INFORMAL AND THE RESPONSE PROVIDED CONCERNING YOUR GRIEVANCE TO HAVE ALL RETENTION FUNDS PLACED ON YOUR SPENDABLE ACCOUNT DUE TO YOUR STATUS AS A "NATURAL LIFER" AND YOUR ASSERTION THAT A.R.S. 31-254 DOES NOT APPLY TO YOU. I CANNOT RESOLVE THIS ISSUE AS I DO NOT HAVE AUTHORITY TO GO OUTSIDE THE POLICY. I RECOMMEND THAT THE POLICY BE REVIEWED (D.O. 905) AND SECTION 1.2 BE REVISED/REVIEWED WITH THE GOAL BEING CLARIFICATION OF THE STATUS OF "LIFER'S" VIS A VIS THE RETENTION FUND.

Staff Member's Signature

P. Riarr

Badge Number

Date

7-9-10

Att. 3

Inmate Letter

Inmate Name (Last, First M.I.) <i>Little Peter J.</i>	ADC Number <i>173397</i>	Institution/Unit <i>Cibola CF9</i>	Date <i>9-29-10</i>
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To: <i>CO III Huizar</i>	Location <i>CO III office CF</i>
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State briefly but completely the problem on which you desire assistance. Provide as many details as possible.

I want to know why I have not received the grievance back from Dakota Unit which you told me was on the wardens desk.

I want a written response added with the return of this inmate letter since the grievance coordinator will not process my grievance without a written response. This is an informal resolution request on why my grievance has not been answered and returned from Dakota Unit since this is the same complex as Cibola.

A.D.C. is knowingly violating my 5th and 14th Amendment rights under U.S. Supreme Court law and U.S. Constitution by illegally holding my money on a retention fund and state statute which does not apply to me and is erroneous under U.S. Supreme Court presidents.


Inmate Signature <i>Peter Little</i>	Date <i>9-29-10</i>
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Have You Discussed This With Institution Staff? ☒ Yes ☐ No *CO III Huizar, CO III Wilson at*
 If yes, give the staff member's name: *Dakota Unit, grievance filed at Dakota Unit.* **ATT4**

ARIZONA DEPARTMENT OF CORRECTIONS

Inmate Letter Response

For distribution: Copy of corresponding Inmate Letter must be attached to this response.

Inmate Name (Last, First M.I.) Litter, Peter J.		ADC Number 173397
Institution/Unit ASPC-Yuma-Cibola		
From COIII Huizar		Location COIII Office Building 6E/F
<p>This is your second inquiry on the same issue. On 8/16/2010 you gave me an inmate letter inquiring on the status of your grievance. I, verbally informed you, that I was told by Dakota Grievance coordinator that your grievance was at the Warden's office. I have now on 10/06/10 been informed that the grievance was never received at the Warden's offices. I contacted the Dakota Grievance coordinator and she provided me with a copy of your grievance and grievance response from the Dakota Deputy Warden. A copy has been attached for you to use/information. Also, per Policy 801.01.11 Unless notified of an extension of time frames, expiration of any time limit for a response at any stage in the process shall entitle the inmate grievant to move to the next step in the process. Extensions at any step in the grievance process shall not exceed 15 working days.</p>		
Staff Signature  6990		Date 10-7-10

Distribution: Original - Central Office Master File
Copy - Inmate
Copy - Institutional File

916-2
5/13/10

ATT 5

ARIZONA DEPARTMENT OF CORRECTIONS

Inmate Grievance Appeal

(To be completed by staff member initially receiving appeal)

The inmate may appeal the Warden's, Deputy Warden's or Administrator's decision to the Director by requesting the appeal on this form.

Received by: E. JensenTitle: COIVBadge #: 8515Date: 10/15/10

PLEASE PRINT

Inmate's Name (Last, First, M.I.) <u>Little Peter J.</u>	ADC No. <u>173397</u>	Date <u>10-8-10</u>
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Institution <u>Cibola/Yuma LFB</u>	Case Number <u>10 Y06-013</u>
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TO:
Yuma Complex Warden J. Starnes

I am appealing the decision of Deputy Warden Rider for the following reasons:

I received my grievance back on 10-7-10 which was filed at Dakota Unit concerning my retention fund and A.R.S. § 31-254 which violates my 5th and 14th Amendment rights under the U.S. Constitution. Warden Rider admits that he does not have the authority to go outside of policy and to put spendable account with retention. If this applies to you as well I will appeal to central office.

Thank You.

Inmate's Signature <u>Peter Little</u>	Date <u>10-10-10</u>	Grievance Coordinator's Signature <u>[Signature]</u>	Date <u>10/25/10</u>
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Response to Inmate By R. Allen Bock, Warden ASGC Yuma Complex Administration

See attached

Staff Signature <u>R. Allen Bock</u>	Date <u>11/18/10</u>
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DISTRIBUTION:

INITIAL: White & Canary - Grievance Coordinator
Pink - Inmate
FINAL: White - Inmate
Canary - Grievance File

802-3
7/13/09

ATT 6

Inmate Letter

Inmate Name (Last, First M.I.) <i>Little Peter J</i>	ADC Number <i>173397</i>	Institution/Unit <i>Cibola</i>	Date <i>11-21-10</i>
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To: <i>Grievance Coordinator</i>	Location <i>CO-III Jansen Office</i>
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State briefly but completely the problem on which you desire assistance. Provide as many details as possible.

ON 10-11-10 I submitted my grievance appeal to complex warden J. Starnes office. The 30 working days for my response was up on November 19, 2010. How come I havn't recived my appeal and response back yet when it's been six weeks?

I need my appeal so I can appeal to Central Office.

I also need you to send me a appeals form for Central Office.

Thank You

11/30/10 Attached, [Signature]

Inmate Signature <i>Peter Little</i>	Date <i>11-21-10</i>
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Have You Discussed This With Institution Staff? ☒ Yes ☐ NoIf yes, give the staff member's name: *This kitz here to you.**ATT 7*

ARIZONA DEPARTMENT OF CORRECTIONS

Inmate Grievance - GF Supplement

Inmate Name (Last, First M.I.)	ADC Number	Institution/Facility	Case Number
Little, Peter	173397	ASPC Yuma Dakota	10-Y06-013

I am in receipt of your inmate grievance appeal and have reviewed the documentation in regards to case #10-Y06-013.

You state in your grievance to Deputy Warden Rider that you need your money in your retention fund account for legal costs and you want all of your money moved to your spendable account. Department Order 905.04 Disbursement of Inmate Monies section 1.2 specifically Attachment J states you can use your retention fund for legal costs.

As for your request to have all of your retention money placed in your spendable account this is not allowed in Department Order 905.

Therefore, I can't resolve your grievance. You have five work days to appeal my decision to the next level.

Signature 	Date 11/15/10
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INITIAL DISTRIBUTION - Committee Recommendation - All copies to Grievance Advisory Committee
FINAL DISTRIBUTION - White and Pink - Inmate, Canary - Grievance File

INITIAL DISTRIBUTION - GF Supplement - White and Canary - Grievance Coordinator, Pink - Inmate
FINAL DISTRIBUTION - White - Inmate, Canary - Grievance File

ATT 8

ARIZONA DEPARTMENT OF CORRECTIONS

Inmate Grievance Appeal

(To be completed by staff member initially receiving appeal)

The inmate may appeal the Warden's, Deputy Warden's or Administrator's decision to the Director by requesting the appeal on this form.

Received by: _____
 Title: _____
 Badge #: _____
 Date: _____

PLEASE PRINT

Inmate's Name (Last, First, M.I.) <u>Little Peter J.</u>	ADC No. <u>173397</u>	Date <u>12-6-10</u>	
Institution <u>Yuma/Cibola 6F9</u>		Case Number <u>10-406-013</u>	
TO: <u>Chuck Ryan ADC Director</u>			
I am appealing the decision of <u>Yuma Complex Admin and Warden J. Starnes</u> for the following reasons: <u>They will not place retention fund on spendable account. The retention fund is in violation of my 5th Amendment Rights for "takings clause" and "Due Process" under the 14th Amendment. A.R.S. 31-254 is erroneous as it has no provisions when it comes to a convict with no release date. Furthermore, under U.S. Supreme Court law a state statute is without merit when it violates the U.S. Constitutional Amendments.</u> <u>I am requesting that \$1,000⁰⁰ of my retention fund be send to my Mother and the rest be placed on spendable account. See attachment?</u>			
Inmate's Signature <u>Peter Little</u>	Date <u>12-6-10</u>	Grievance Coordinator's Signature	Date
Response To Inmate By:		Location	
Staff Signature		Date	

DISTRIBUTION:

INITIAL: White & Canary - Grievance Coordinator
 Pink - Inmate
 FINAL: White - Inmate
 Canary - Grievance File

802-3
 7/13/09

ATT 9

ARIZONA DEPARTMENT OF CORRECTIONS

Inmate Grievance - GF Supplement

Inmate Name (Last, First M.I.)	ADC Number	Institution/Facility	Case Number
Little Peter J.	173397	Yuma/Cibola 6F9	10-406-013

If this request is denied I will be forced to file a federal law suit for the violation of 5th and 14th Amendments. The law suit will also include just compensation under the 5th Amendment along with the State of Arizona ADC paying all Court costs and also making up the differents for the \$4.50 per hour that the ADC took off of the top of wages paid.

The grievance was returned to me on 12-2-10 and I have five working days to file this response by 12-8-10 under policy.

This appeal is being sent to ADC Central Office on 12-6-10. This appeal is also being mailed by Registered Mail.

Mother Address.

Pamula Little
2921 E. Pierson Rd.
Flint Mi, 48506

Central Office has 30 working days to response to this appeal per policy. making it 1-16-11 excluding holidays.

I am also making it known to Central Office that the original Inmate Letter on this issue, the CO III's Response from G. Wilcox, the original grievance when submitted at Dakota Unit was not returned to me. I was transferred to Cibola on the same complex and wrote an Inmate Letter to CO III Huizar. The Dakota grievance still was not returned so I wrote another inmate letter to CO III Huizar. He obtained a faxed copy of the grievance which he returned to me but still did not receive my original copies that I should of obtained. → GF Supplement page two →

Signature	Date
Peter Little	12-6-10

INITIAL DISTRIBUTION - Committee Recommendation - All copies to Grievance Advisory Committee
FINAL DISTRIBUTION - White and Pink - Inmate, Canary - Grievance File

INITIAL DISTRIBUTION - GF Supplement - White and Canary - Grievance Coordinator, Pink - Inmate
FINAL DISTRIBUTION - White - Inmate, Canary - Grievance File

CF - Supplement Page Two.

The ADC paralegal would not make copies because in her opinion a grievance is not legal work therefore would not be approved for qualified legal copies. The librarian denied copies for me when another inmate tried to obtain copies because his name was not on papers and even though he had the funds on account.

Therefore these pages are not included with this appeal and if this office wants to see they can obtain the original file from Dakota Unit.

Appellate here will retain his copies as proof of exhausting state remedies if a civil suit is necessary and knows this office will not return papers as the state has attempted to hinder appellate at all stages of this process.

Per Policy this office has 30 working days to respond to the appeal which would make the date of January 14, 2011.

ARIZONA DEPARTMENT OF CORRECTIONS

Inmate Letter

Requests are limited to one page and one issue. NO ATTACHMENTS PERMITTED. Please print all information.

Inmate Name (Last, First M.I.) <i>Little, Peter J</i>	ADC Number <i>173397</i>	Institution/Unit <i>Yuma/Cibola GF9</i>	Date <i>1-20-11</i>
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To: <i>Grievance Coordinator</i>	Location <i>Coordinator's Office</i>
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State briefly but completely the problem on which you desire assistance. Provide as many details as possible.

I'm writing to ask where my response is for the grievance I filed with Central Office on 12-6-10 at it's now two weeks pass the time Central Office and ADC Director Chuck Ryan had to respond per ADC policy. Grievance Case Number is 10-y06-013 and concerns my retention fund.

Thank You

Inmate Signature <i>Peter Little</i>	Date <i>1-20-11</i>
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Have You Discussed This With Institution Staff? ☐ Yes ☒ No

If yes, give the staff member's name:

ATT 10

DIVISION ONE
COURT OF APPEALS
STATE OF ARIZONA

IN THE

Court of Appeals

STATE OF ARIZONA
DIVISION ONE

FILED JUL 20 2010

PHILIP G. URRY, CLERK
BY _____

PETER JAMES LITTLE,	)	Court of Appeals
	)	Division One
Petitioner,	)	No. 1 CA-SA 10-0152
)	
v.	)	Maricopa County
	)	Superior Court
THE HONORABLE MARGARET R.	)	No. CR 2001-005401
MAHONEY, Judge of the SUPERIOR)	
COURT OF THE STATE OF ARIZONA,)	
in and for the County of)	
MARICOPA,)	
)	
Respondent Judge,)	
)	
STATE OF ARIZONA,)	
)	
Real Party in Interest.)	

CERTIFICATE OF MAILING re:
ORDER SETTING DATES

A true copy of the foregoing document was mailed July 20, 2010,
to:

Peter James Little, ADOC 173397
Arizona State Prison
Yuma - Dakota Unit
P O Box 8940
San Luis, AZ 85349

Marjorie S Becklund, Assistant Attorney General
Arizona Attorney General's Office
1275 W Washington St
Phoenix, AZ 85007

Hon Margaret R Mahoney, Judge
Maricopa County Superior Court
East Court Building
101 West Jefferson St
Phoenix, AZ 85003-2243

PHILIP G. URRY, CLERK

By Skob
Deputy Clerk

ATT 11

IN THE
Court of Appeals
STATE OF ARIZONA
DIVISION ONE

DIVISION ONE
COURT OF APPEALS
STATE OF ARIZONA

FILED JUL 20 2010

PHILIP G. URRY, CLERK
BY 

PETER JAMES LITTLE,	)	Court of Appeals
	)	Division One
Petitioner,	)	No. 1 CA-SA 10-0152
)	
v.	)	Maricopa County
	)	Superior Court
THE HONORABLE MARGARET R.	)	No. CR 2001-005401
MAHONEY, Judge of the SUPERIOR)	
COURT OF THE STATE OF ARIZONA,)	
in and for the County of)	
MARICOPA,)	
)	
Respondent Judge,)	
)	
STATE OF ARIZONA,)	
	)	ORDER SETTING DATES
Real Party in Interest.	)	DIRECTING SERVICE and
	)	FIXING TIME FOR RESPONSE

A petition in a special action having been filed,

IT IS ORDERED that said petition will be considered either at argument or conference during the MORNING of August 11, 2010, by Department B (August):

John C Gemmill, Presiding Judge
Michael J Brown, Judge
Philip Hall, Judge

The parties and their counsel are directed to reserve the MORNING of the above date in the event the court determines that oral argument should be scheduled.

IT IS FURTHER ORDERED that objections to the relief requested in the petition, shall be in the form of a written response and shall be filed and served on or before July 30, 2010, unless the court, prior thereto, declines to accept jurisdiction without requiring a response. After the time for filing a response has expired, the parties will be notified if oral argument will be heard or if the matter will be considered at court conference only. The date in any event, will be as indicated in the first paragraph.

IN THE
Court of Appeals
STATE OF ARIZONA
DIVISION ONE

FILED JUL 21 2010

PHILIP G. CURRY, CLERK
BY 

PETER JAMES LITTLE,	)	No. 1 CA-SA 10-0152
)	
Petitioner,	)	DEPARTMENT B
)	
v.	)	Maricopa County
	)	Superior Court
THE HONORABLE MARGARET R.	)	No. CR 2001-005401
MAHONEY, Judge of the SUPERIOR)	
COURT OF THE STATE OF ARIZONA,	)	O R D E R
in and for the County of)	
MARICOPA,)	
)	
Respondent Judge,)	
)	
STATE OF ARIZONA,)	
)	
Real Party in Interest.)	

COURT OF APPEALS DIVISION 1
STATE OF ARIZONA
FILED

AUG 09 2010

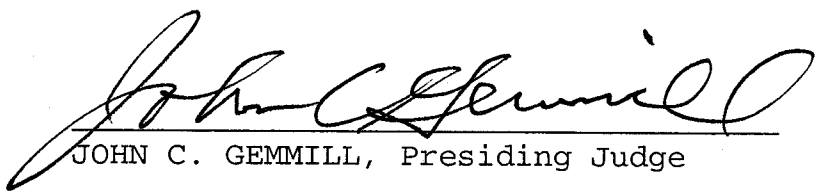
RUTH WILLINGHAM, ACTING CLERK
BY 

The court (Judges John C. Gemmill, Michael J. Brown, and Philip Hall, participating) has received the petition for special action in this matter. After consideration,

IT IS ORDERED that the Court of Appeals, in its discretion, declines to accept special action jurisdiction in this matter.

IT IS FURTHER ORDERED vacating this court's July 20, 2010 order setting dates, directing service, and fixing time for response.

IT IS FURTHER ORDERED that a copy of this order shall be sent to each party appearing herein and to respondent.


 JOHN C. GEMMILL, Presiding Judge





Court of Appeals

RUTH WILLINGHAM
ACTING CLERK OF THE COURT

STATE OF ARIZONA
DIVISION ONE
STATE COURTS BUILDING
1501 WEST WASHINGTON STREET
PHOENIX ARIZONA 85007

Phone (602) 542-4821
Fax (602) 542-4833

August 27, 2010

Michael K Jeanes, Clerk
Maricopa County Superior Court
201 West Jefferson Street
Phoenix, Arizona 85003

Dear Mr. Jeanes:

RE: 1 CA-SA 10-0152

LITTLE v. HON MAHONEY/STATE

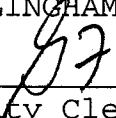
Maricopa County Superior Court
CR 2001-005401

The following are enclosed in the above entitled and numbered cause:

Certified Copy of ORDER declining jurisdiction.

There are no records to be returned.

RUTH WILLINGHAM, ACTING CLERK

By 
Deputy Clerk

Enclosures (as noted)

C:
Peter James Little
Marjorie S Becklund
Kent E Cattani
Hon Margaret R Mahoney, Judge